

DEPARTMENT OF INDUSTRIAL RELATIONS

OFFICE OF THE DIRECTOR
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August 3, 2001

Michele R. Justice, Director
CANDO Contract Compliance
P.O. Box 642
Buckeye, AZ 85326-0047

Re: Public Works Case No. 2001-024
Construction of Yolo County Services Building

Dear Ms. Justice:

This constitutes the determination of the Director of the Department of Industrial Relations regarding coverage of the above-referenced project under California's prevailing wage laws and is made pursuant to Title 8, California Code of Regulations (CCR), section 16001(a). Based upon my review of the facts of this case and an analysis of the applicable law, it is my determination that the construction of the Yolo County Services Building ("the Project") in Woodland is a public work subject to the payment of prevailing wages.

In this case, on February 22, 2000, the County of Yolo ("County") adopted a resolution to solicit bids to sell real property located at the corner of Cottonwood and Beamer Streets in the City of Woodland, subject both to the construction of an office building containing approximately 63,000 square feet of office space and to County's lease of the space. On March 21, 2000, County adopted a resolution accepting a bid from Panattoni Development Company, doing business as Panattoni Development Company, Northwest II, ("Lessor") and declaring that the subject property should be sold to Lessor.

County supplied to Panattoni Construction, Inc. ("Contractor"), on May 16, 2000, performance specifications for the construction of the Project. On June 22, 2000, Lessor and Contractor entered into a construction contract for the construction of the Project according to County's specifications. County and Lessor entered into an agreement on September 29, 2000 for County to lease 100 percent of the assignable square footage of the completed building from Lessor. County plans to consolidate the various office locations occupied by its Department of Employment and Social Services.

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Labor Code section 1720.2 states that "public works" also means any construction work done under private contract when all of the following conditions exist:

- (a) The construction contract is between private persons.
- (b) The property subject to the construction contract is privately owned, but upon completion of the construction work, more than 50 percent of the assignable square feet of the property is leased to the state or a political subdivision for its use.
- (c) Either of the following conditions exists:
 - (1) The lease agreement between the lessor and the state or political subdivision, as lessee, was entered into prior to the construction contract.
 - (2) The construction work is performed according to plans, specifications or criteria furnished by the state or political subdivision, and the lease agreement between the lessor and the state or political subdivision, as lessee, is entered into during, or upon completion of, the construction work.

Applying section 1720.2 to the subject case, the construction contract is between private persons, Lessor and Contractor. In addition, the property subject to the contract is privately owned by Lessor, and County has agreed to lease more than 50 percent of the assignable square feet of the building upon its completion. As to the last requirement of section 1720.2, the construction work is being performed according to specifications furnished by County, and the lease agreement between Lessor and County was entered into during construction. Therefore, the Project is a public work because the conditions specified in section 1720.2 exist in this case.

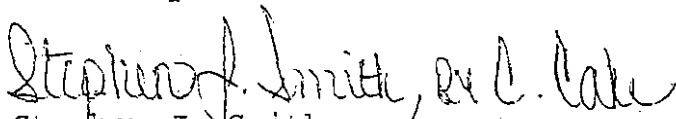
In conclusion, the construction of the Project is a "public work" in accordance with section 1720.2 and is, therefore, subject to the payment of prevailing wages.

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I hope this determination satisfactorily answers your inquiry.

Sincerely,


Stephen J. Smith
Director

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